

RECLAMATION

Managing Water in the West

U.S. Department of the Interior
Bureau of Reclamation
Western Colorado Area Office

835 E 2nd Ave., Suite 400
Durango, CO 81301

Main Phone: (970) 385-6500
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From: PAT PAGE

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PAT

BLOOMFIELD IRRIGATION DISTRICT FAX

Office 632-2800 Fax 632-0846
P.O. Box 606 Bloomfield, NM 87413

To: Pat

Fax # 970-385-6539

From: Karen

Fax: 632-0846

Date: March 03, 2005

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TO Mr. Pat Page
BOR
Durango, CO

FAX

FAX 970-385-6539 PHONE 970-385-6510
X 6560

Subject: *2005 Storage Sharing Agreement
B.I.D Endorsement*

M
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S
A
G
E

*Includes all of original endorsement
items plus B.I.D. requirements to sign
and tells our "story".*

*Thanks,
Carroll*

FAX

*Copy to Mr. Jim Dunlap - NM/IS Chairman
FAX 598-9202*

FROM



Carroll Crawford
83 Road 5295
Farmington, NM 87401

FAX 505/632-2894 PHONE 505/632-2892

FAX



Endorsement and Agreements

The undersigned party endorses the Recommendations for San Juan River Operations and Administration for 2005, dated November 15, 2004, and agrees to comply with its terms, provided that this Endorsement and Agreements if accepted and implemented by Reclamation and the State Engineer, and any results from the implementation of these Recommendations shall not be construed to:

1. be a determination or evidence of, or to establish, any party's water rights or consumptive use of water;
2. be an endorsement of the NM-SEO July 6, 2000 letter and attached preliminary table to the USBR indicating the authorized diversions from the San Juan River below Navajo Dam for the Low Flow Test in which the Porter Ditch and all Water Right, CFS for all permits and licenses granted after the 1948 Echo Decree No. 01690 in the Citizens Ditch (B.I.D.) were omitted resulting in an understatement by over fifty-two percent (52%), plus the Animas-La Plata CFS for 4580.1 acre feet per year without ditch carriage water under OSE File No. 4489 and 4495 City of Bloomfield/San Juan Water Commission and OSE File 4498 (City of Bloomfield allocation shown) for full diversion amount under the Animas-La Plata permits (currently limited to one-half the full diversion amount) for year round diversion, and further omitted the Archuleta Ditch (2.6 CFS) and other individual diversions using Jicarilla Contract Water using approximately 930 acre feet of additional water with the resulting significantly large understatement of Navajo Dam Release needed (CFS) to satisfy the downstream water rights upstream of the Animas River Confluence;
3. be an endorsement of the flawed seven-day July 9-15-2001 250 CFS Low Flow Test and predetermined conclusion that the 250/5000 preferred alternative flow recommendation of all year round 250 CFS including the irrigation season by selecting the three days (7/10-11-12) a wide area of general rain storm increased the San Juan Flow from Largo, Gobernador, Simon Canyon, Kutz, Gallegos and other arroyos inflow above the Animas Confluence to mask the negative test results. The B.I.D.'s Letter of Exception in July, 2001 after the test where the District was and would not be able to divert the amount of water entitlement to serve the needs of the land owners and M&I users; insufficient consideration of the river's natural stream channel splits, caused by numerous islands in the river that also caused other ditches and individual diversions to suffer adverse impact from low or no water availability (D. Lee and E. Hickam); as observed by a BOR Test Engineer with an owner; the documented game fish kill from high water temperature with photos and reports; the serious economic consequences of year round low flow to electrical generation by Farmington Electrical Department at Navajo Dam, game fish industry, agriculture production, and water quality degradation projected into millions of dollars impact on the Basin, and casts serious doubt the low flow releases would not impair senior water rights as well as junior water rights when the Navajo Reservoir enabling legislation intent and promise that downstream direct flow water rights users would not be impaired by

82

Low Flow
 alternative flow
 irrigation season by
 storm increased
 Gallegos and
 alternative test

the project in contrast to the now over-reaching San Juan River Basin Recovery Implementation Program to benefit downstream endangered fish with exceptionally high water flow rates plus BOR project purposes is imprudent for the support of the DEIS conclusions relying on the low flow test result(s) reported: the State Engineer must remain aware that the spring release from the Navajo Reservoir to build fish habitat or 500 CFS continuous flow at the recovery area (400 CFS is a shortage is called) that may not be based on accepted solid scientific evidence; and these high flows have been a major cause of the shortage experienced in recent years where over 5,100,000 acre feet were released for the fish during 1991 to 2001 that drained Navajo Reservoir equal to over six and one-half times from the BOR end of the year lake elevation down to the NIIP inlet at 5990 feet elevation during that time period preceding the 2002-2004 drought period;

4. be an endorsement of the DEIS, whereas the B.I.D. opposes the DEIS and the fallacious conclusions of the Preferred Alternative or any other information described in the Navajo Dam Operations Environmental Impact Statement, including descriptions and analysis of water rights, river-hydrology, or of any Record of Decision that may be issued on the DEIS conclusion of a 250 CFS year-round minimum Navajo Reservoir release that has not been properly disclosed or negative effects publicly debated that likely will impair downstream water right users during the irrigation season and is likely to be insufficient to adequately serve the B.I.D. ditch's approximately 160 CFS diversion point requirement on the San Juan River as well as impairment to other users diverting from natural river channels down to the confluence of the San Juan and Animas River, and the B.I.D. likely will have an expensive recurring and challenging problem with the upstream natural river channels for low flow and alternating spring release high flow modifications to preserve diversion head works for the foreseeable future from the existing western most river channel during the irrigation season to satisfy the B.I.D. 160 CFS of their water right entitlement combined in the agreement plus July and August 12.5% increase if needed to get water to the end of B.I.D.-operated 43 mile long canal;
5. be an endorsement of the understated percentage specified for B.I.D. irrigation uses as related to its total special levies or fees for acreage served;
6. be an endorsement of the San Juan Water Commission approved application for the B.I.D. to transport Animas-La Plata water to the point of beneficial use without the proper carriage water being determined and diverted over and above the permitted water amount;
7. be an endorsement of the Shortage Sharing Committee's rejection of the NM-SEO/ISC representative credible and acceptable solution to the B.I.D.'s concern of the possible and "somewhat" likely DEIS Final Decision and implementation of the 250 CFS minimum release during the July-October time frame of the irrigation season by making a very minor change to 2(c) on page five to read "maintain a minimum release of 250 CFS during (strike 2005) the non-irrigation season";
8. be a precedent for Navajo Dam operations or water administration in the San Juan River Basin in New Mexico in succeeding years;

9. be an agreement as to the validity or applicability of, or to imply an accepted modification to, the San Juan River Basin Recovery Implementation Program's flow recommendations for endangered fish habitat in the San Juan River or any interpretation thereof;
10. establish any cause and effect relationships between any water uses, including water uses described in Section 1 of the Recommendations and water uses not included in Section 1, and stream-flow impacts, water supplies or shortages;
11. establish any priorities between a given use of water from the San Juan River and other uses of water from either the San Juan River or its tributaries;
12. establish any entitlements to water, including any entitlements of fish to specific in-stream flows;
13. alter or amend any pre-existing agreements between parties unless otherwise expressly agreed to by the parties to said agreements;
14. waive the sovereign immunity of any Indian tribe; or
15. constitute a consent to tribal jurisdiction by any party.

SUB-AGREEMENT BETWEEN B.I.D. NM-SEO, AND BOR

The Recommendations are endorsed by the Bloomfield Irrigation District subject to this sub-agreement with the New Mexico State Engineer and the Bureau of Reclamation, in accepting the agreement, agrees to accommodate any increased CFS releases from the Navajo Dam required above 250 CFS to get B.I.D.'s amount of water down its side of the existing and future riverbed so the amounts of CFS shown in the 2005 Shortage Sharing Agreement are available for the B.I.D. to divert through the 2005 Irrigation Season at its existing diversion point in the San Juan River with minimum additional river bed maintenance. The B.I.D. supports saving as much water in Navajo Reservoir as possible each water year but refer to NM State Statute 72-5-33D that allowed those waters to be set aside for projects such as Navajo Reservoir that states, "Nothing in this section shall affect the water rights of any senior appropriators in New Mexico or any Indian Tribe." The NM-SEO and the BOR should also take note of NM State Statute 72-5-17. The B.I.D. takes exception to statements made by representatives of the SEO in previous meetings held, that the BOR can store excess water over the beneficial use requirements of that water year when any other beneficial user may be affected whether they have a right to store water in Navajo Reservoir or not. The B.I.D. has been denied the right under this statute to explore the possibility of obtaining storage rights in Navajo Reservoir by a Representative of the NM-SEO in a letter stating they must first have a contract with the BOR. This disregard of the B.I.D. rights under New Mexico State Law puts B.I.D. in a position such as the Shortage Sharing Agreement and coming Administration of the River Rules and Regulations to be concerned when entering agreements that could place restrictions on the B.I.D. to continue to assert its Rights under New Mexico Law to its benefit. B.I.D. continues to take exception to the recent NM-SEO representative assertion that water taken out of Navajo Reservoir must be contracted from the BOR. The BOR does not own any water in Navajo Reservoir but has a NM State Right to store it. All water users only get a right to use the water from the NM - SEO and that right is an annual amount each water year. The NM-SEO would be providing a welcome service to water users to explain there

is no state law requiring a contract with the BOR to have water released from Navajo and the NM-SEO can order the BOR to release water from the Navajo Reservoir for senior users downstream and the SEO could pull the BOR's permits where they have yet to be adjudicated.

In conclusion of this endorsement, the B.I.D. understands it is really up to the State Engineer and the BOR to determine the amounts of release in CFS from Navajo Reservoir and not the agreement signatory parties who have no carryover rights in the Reservoir. The small concession the B.I.D. requests for this year to sign onto the agreement and stay in it is quite insignificant when there will likely be an abundance of water this year. The B.I.D. refers to Chapter IV, page 1 of the DEIS-Volume 1 under "Reservoir Operations," the paragraph beginning "Some flexibility in reservoir releases exists because water committed for present or future development is not currently used. This may be a significant amount of water in any given year and would be released downstream until used for development. The release of this water could be incorporated into operations to augment a 250 CFS minimum release . . . additional water would be determined through the Navajo Unit operations meetings and discussions . . ." We do not wish to engender the catastrophic result of no agreement and the SEO required to administer the river with the local power plants being curtailed on water use during the summer is not desirable though unlikely. The B.I.D. submits this lengthy endorsement so that all parties, the State Engineer, and the BOR can fully understand our position. The B.I.D. does not have the money, power, and politics behind it to carve out deals each year to get water. We find in this year's problems disclosed, the B.I.D.'s position to get help fell short on this account, and we rely on the State Engineer and NM Water Law to avoid the conditions of water non-availability except for declared shortages for B.I.D. to reserve the right to withdraw, in writing, from this agreement if B.I.D. water rights become impaired by the FEIS Record of Decision and implementation during the 2005 irrigation season without intervention for additional releases by the State Engineer and BOR.

Signed this 3rd day of MARCH 2005

Carroll Crawford

Name: CARROLL CRAWFORD

Title: CHAIRMAN-BOARD OF DIRECTORS

On Behalf of: BLOOMFIELD IRRIGATION DISTRICT

If appropriate, a resolution evidencing authority to enter into this Endorsement and Agreement to be Bound is attached.